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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ.
HON'BLE SHRI D.R. DESHMUKH, J.

WRIT PETITION 847 OF 2005

PETITIONER Devendra Kumar Tiwari
S/o Shri K.M. Tiwari, aged about 34 years, R/o. Ward No. 13, Manendragarh, Railway Colony, Tiwari Aatachkki, Manendragarh, Distt. Korea (C.G.)

Versus

RESPONDENTS Union of India Through

(1) The Secretary, Ministry of Railways, Rail Bhavan, New Delhi.
(2) General Manager, South Eastern Railway, Garden Breach, Kolkata
(3) Divisional Railway Manager, South Eastern Railway, Bilaspur
(4) Sr. Divisional Railway Engineer, South Eastern Railway, Bilaspur.

Present : Shri Yashwant Tiwari, learned counsel for the petitioner.
Shri Vinay Harit, learned Sr. counsel for the respondents.

ORAL ORDER
(Passed on 12th April, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, C.J.

The dispute brought before this Court relates to appointment of Monsoon Patrolmen for a period of 190 days during the Monsoon session in the year 1996. Whereas it is the case of the department that the eligibility of candidates for that appointment should be assessed by conducting physical test as well as interview, it is the contention of the petitioner that in terms of administrative instructions issued by the department, the eligibility should be decided only on the

basis of physical test (in this case, race test) and not on the basis of the performance in the race test as well as performance in the interview.

(2) Having perused the administrative instructions issued by the department contained in the circular dated 29-05-1995, we cannot say that the recruiting agency committed any error in conducting the interview of the candidates who applied for the post of Monsoon Patrolman. Secondly, such a practice is adopted not only in the case of the petitioner herein, but, universally, that is to say, in the case of all others who applied for the said post. Above all, at this distant of time, we cannot give any relief to the petitioner, not even a direction to the department to consider his case afresh for after 1999 and till this day, large number of others might have acquired eligibility to apply and to be considered for the post of Monsoon Patrolman by virtue of Article 14 read with Article 16(1) of the Constitution, and therefore, even preferential treatment could not be extended to the petitioner. We do not find any merit whatsoever in the writ petition. It is accordingly dismissed. However, this order shall not come in the way of the petitioner and similarly circumstanced others, if they continue to be eligible to apply for the post of Monsoon Patrolman from applying for the said post, in the event of the department calling for applications to make appointments in future to the post of Monsoon Patrolman.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Brijesh